

SantoSanto.Net's Standard Terms and Conditions Revision 1.1

The Standard Terms and Conditions defined below, is here in an amendment to all SantoSanto.Net service agreements between the named Service Provider and Customer, as defined within each signed service agreement.

Standard Terms and Conditions:

This website service agreement is made by and between Vincent F.D. Santomero, herein referred to as "Service Provider", with a principle place of business at 2145 Granada Lane, La Verne, CA 91750 and Customer's business name herein referred to as "Customer", with a principle place of business at Customer's business address.

WHERE AS, the Customer desires to retain the Service Provider to design, develop, hosting, and maintenance a World Wide Web site (the "Website") for the Customer as described in the Statement of Work, as defined in attachment A of this document and agrees to do so under the terms and conditions of this Agreement.

WHERE AS, the Service Provider desires to undertake the design, development, hosting and maintenance of the Website for the Customer as described and agrees to do so under the terms and conditions of this Agreement.

NOW, THEREFORE, for goods and valuable consideration, the parties agree to the following terms and conditions:

Section 1: Statement of Work. The Service Provider has prepared a Statement of Work (SOW) for the design, development, hosting and maintenance for the Website. Attachment A describes the Proposal specifications for the design, development, hosting and maintenance, which comply with the requirements of the Customer's Request for Proposal. The SOW lists all services provided as deliverables to Customer ("the Deliverables") such as website theme, page quantity and sitemap layout, compensation for website development. Furthermore, the SOW shall provide the website hosting period, including hosting options, such as business e-mail, and hosting and maintenance cost(s).

The Service Provider shall deliver the Statement of Work (SOW) to Customer with this Agreement. Customer shall have (5) five days to review and comment upon the SOW. Upon approval of the SOW by Customer, it will be attached as Exhibit "A" and will become a part of this Agreement. The Service Provider shall immediately commence development of the Website in conformity to the SOW.

Section 2: Payment. The total contract price for the Website development and Hosting services shall be as set forth in the Statement of Work and shall be payable in installments according to the payment schedule set forth therein. Each installment shall be payable upon completion of each project phase by the Service Provider and acceptance by Customer.

Section 3: Changes to Statement of Work. If at any time following acceptance of the Statement of Work (SOW), Customer shall desire to change the specifications or other elements of the SOW, Customer shall submit to Service Provider a written proposal of specifying such changes. Service Provider shall evaluate each such proposal and submit to customer a written response within (10) ten business days following receipt thereof. Service Provider's response shall include a statement of the effect the proposal change will effect price, delivery dates or warranty provisions of this Agreement. A "Statement of Work Amendment" shall evidence any changes to the Statement of Work (SOW). The SOW Amendment shall be signed by authorized representatives of Service Provider and Customer, and shall be deemed a part of this Agreement. If Service Provider does not approve the SOW Amendment, he shall not be obligated to perform any additional services hereunder.

Section 4: Delays. Service Provider shall inform Customer immediately of any anticipated delays in the schedule stated within the Statement of Work and of the actions being taken to assure completion of the Website within such schedule. If any delivery dates are missed, Customer may, at its sole option, declare a default under this Agreement and may pursue all remedies set forth in Section 13; provided, however, that Customer may not declare a default hereunder if such delay is caused by any action of failure to act of Customer. The Service Provider cannot be held in default of this Agreement in call of delays on the part of Customer. In such case, the Service Provider will provide the Customer with written notice that such a delay has occurred. Work on the Website shall not resume until the reason for the delay has been result by the Customer. And notice of its resolution has been provided to the Service Provider.

Section 5: Acceptance. Upon the completion of the Website in accordance to the specifications in the SOW, all HTML files, style sheets, images, and videos required for the function of the website shall be uploaded on the Service Provider's host server. The customer shall have (10) ten days from such completion to inspect, test and evaluate the Website to determine whether it satisfies the acceptance criteria set forth by the SOW. If the Website does not satisfy the acceptance criteria, Customer shall give Service Provider written notice stating why the Website is unacceptable. The Service Provider shall have (10) ten business days from the receipt of such notice to the deficiencies. Customer shall then have (5) five business days inspect test and reevaluate the Website. If the Website still does not satisfy the acceptance criteria, Customer shall have the option to of either: (1) repeating the procedures set forth above, or (2) terminating this Agreement pursuant to Section 13. If and when the acceptance tests establish that the Website complies with the acceptance criteria, Customer shall notify Service Provider that it accepts the Website. The date of such specification shall be the date on which Customer shall be obligated to make the final payment specified in the payment schedule set forth in the Statement of Work.

Section 6: Authority. The Customer certifies that he or she is at least 18 years of age. Service Provider and Customer each hereby represent and warrant that the execution, delivery and performance of this Agreement has been duly authorized and that the

Agreement is a legal, valid and binding agreement of Service Provider and Customer, enforceable in accordance with its terms. Service Provider and Customer further represent that this Agreement does not breach or violate any agreement to which it is a party or to which it is bound.

Section 7: Rights to Website Product. Service Provider hereby acknowledges that the Deliverables and any other documentation, materials or intellectual property hereunder (collectively, the "Statement of Work") are works, which have been specifically commissioned by Customer and are "work made for hire" for customer and Customer shall own all rights, title, and interest therein. Customer shall be considered the author of the Website Product for the purposes of copyright and shall own all the rights in and to the copyright of the Website Product and, as between Customer and Service Provider, only Customer shall have the right to obtain a copyright registration on the same which Customer may do in its name, its trade name or the name of its nominee(s). Accordingly, among other things, Customer is the author and owner of the Website Product. and shall have sole and exclusive right to do and authorize any and all of the acts set forth in section 106 of the Copyright Act with respect to Website Product and any derivatives hereof, and secure any and all renewals and exclusions of such copyright. To the extent Service Provider does not own such Website Product as a work made for hire, Service Provider hereby assigns, transfers, releases, and conveys to Customer all rights, titles, and interests, to such Website Product, including but not limited to all other patents rights, copyrights, and trade secrets rights.

Section 8: Training. Service Provider shall provide not training in the use of the Website. Limited support via phone or e-mail will be available to Customer for (30) thirty days following acceptance of the Website. As set forth in section 5, "Limited Support" shall include instruction to access, alter, and maintain the Website using software and/or technology purchased by Customer. Service Provider is not responsible for providing software and/or technology to Customer.

Section 9: Representation and Warranties.

a. Warranty of Website Performance. Service Provider represents and warrants that, for (30) thirty days following acceptance of the Website by Customer, the Website will be free from programming errors and defects in workmanship and materials, and will conform to the specification in the SOW. If programming errors or other defects are discovered during the warranty period, Service Provider shall promptly remedy them at his expense. Service Provider does not warrant that the functions of the web site will meet the client's expectations of site traffic or resulting business. In no event will Service Provider be liable to the Customer or any third party for any damages, including any lost profits, lost savings or other incidental, consequential or special damages arising out of the operation of or inability to operate these Web pages or Web site, even if Service Provider has been advised of the possibility of such damages.

b. Warranty of Title. Service Provider represents and warrants that he owns and has the complete right to license, convey title without any encumbrances to the Website and

Deliverables covered by this Agreement. Service Provider further represents and warrants that he has obtained all required registrations, permissions, and consents from all third parties necessary to deliver the Website, Background Technology and Deliverables. Service Provider shall not grant any rights or licenses to any intellectual property that would conflict with his obligations or Service Provider rights under this Agreement.

c. **Warranty Against Disablement:** Service Provider expressly represents and warrants that no portion of the Website contains or will contain any protection feature designed to prevent its use. This includes, without limitation, any computer virus, software lock, drop dead device, Trojan-house routine, trap door, time bomb or any other codes or instructions that may be used to access, delete or damage or disable the Website or company system.

d. **Warranty Against Compatibility:** Service Provider represents and warrants that the Website shall be compatible with standard computer hardware and software as set forth in the specifications in the Statement of Work.

e. **Warranty Against Intellectual Property Infringement:** Service Provider represents and warrants that the Website and Deliverables shall not infringe on the trademark, patent, trade secrets or any other rights of any third party. To the extent the Website or Deliverables infringe upon the rights of any third party, Service Provider shall obtain a license or consent from such third party permitting the use of the Website or Deliverables.

Section 10: Indemnity.

a. **Indemnification Against Liability for Infringement:** Service Provider shall indemnify Customer and any of its officers, directors, employees or agents against claims, liabilities, costs, damages, fees and expenses (including reasonable attorney fees) arising for any breach or alleged breach of warranty under the Agreement or any claim or suit alleging infringement by Website, Background Technology or Deliverables of any patent, copyright, trade secret or trademark rights or any other rights of any third party. Customer shall promptly notify Service Provider in writing of any third party claim or suit and Service Provider shall have sole control of the defense of any such action and all negotiations for its settlement or compromise. Customer may participate at its own expense in the defense of any such action at its sole discretion.

b. **Indemnity by Customer:** Customer shall indemnify Service Provider and any of its officers, directors, employees or agents against claims, liabilities, costs, damages, fees and expenses (including reasonable attorney fees) arising for any action based upon any content on the Website that is solely provided by Customer.

Section 11: Confidentiality.

a. **Confidential Information:** For purposes of this Agreement, the term “Confidential Information” means all information that is not generally known by the public and that: (i)

is obtained by Service Provider from Customer, or that is learned, discovered, developed, conceived, originated, or prepared by the Service Provider during the process of performing this Agreement, and (ii) relates directly to the business or assets of Customer. The term "Confidential Information" shall include, but shall not be limited to: inventories, trade secrets, and know-how; computer software code, designs, routines, algorithms, and structures; product information, research and development information; research and development information; lists of clients and other information relating thereto; financial data and information; business plans and processes; and any other information of Customer that Customer informs Service Provider, or that Service Provider should know by virtue of its position, is to be kept confidential.

b. **Obligation of Confidentiality:** During the term of this Agreement, and at all times thereafter, Service Provider agrees that he will not disclose to others, use for his own benefit or for the benefit of any other Customer, or otherwise appropriate or copy, any Confidential Information, whether or not development by Service Provider, except as required in the performance of its obligations to Customer hereunder. The obligations of Service Provider under this paragraph shall not apply to any information that becomes public knowledge through no fault of the Service Provider.

Section 12: Term of Agreement. This Agreement commences on the date it is executed and shall continue until full performance by both parties, or until earlier terminated by one party under the terms of this Agreement.

Section 13: Termination of Agreement. This Agreement may be terminated by Customer at its sole election upon thirty (30) days prior written notice to Service Provider. Upon such termination, all amounts owed to Service Provider under this Agreement for completed work in accordance with the SOW shall become due and payable. At such time, Service Provider shall deliver all completed work to Customer.

If this Agreement is terminated by Customer because of Service Provider default of his obligations, terminates this agreement hereunder, Customer may, after thirty (30) days prior written notice to Service Provider and a reasonable opportunity to cure:

a. require Service Provider to immediately deliver to Customer all Website work developed by Service Provider under this Agreement and pay Service Provider all amounts owed for the work performed under this agreement by Customer, whereupon Customer shall have completed right, title and interest in such work and all rights, permissions and license granted to Customer by Service Provider under this Agreement shall continue, in perpetuity as royalty-free and fully paid rights; or

b. pursue all legal and equitable remedies against Service Provider.

If the Service Provider terminates this Agreement because of Customer default, after a thirty (30) day written notice to Customer and a reasonable opportunity to cure. Service Provider may require:

a. Customer to pay all amounts then due Service Provider under this Agreement for any work which has been completed and accepted by Customer, whereupon Customer shall have complete right, title and interest in such work and all rights and licenses granted to Customer by Service Provider under this Agreement shall survive as royalty free and fully paid-up; and

b. pursue all legal and equitable remedies against Customer.

Section 14: Assignment. Neither part may assign or subcontract its rights or obligations under this Agreement without the prior written consent of the other party, which shall not be unreasonably withheld.

Section 15: Transfer. The Customer may not transfer this agreement without the written consent of Service Provider. This Agreement constitutes the entire understanding of the parties. Any changes or modifications to this Contract thereto are agreed to by both parties upon renewal of services.

Section 16: Location of Website. Service Provider shall install all HTML files, Cascading Style Sheet files, images, graphics and videos on SantoSanto.Net server. Service Provider shall use his best good faith effort to assure that Website files are kept secure and functional. SantoSanto.Net uses subcontracted server hardware to host and maintain websites. The Service Provider best good faith effort to ensure that proper amount of server resources is available for Customer's Website at all times.

Section 17: Trademarks and Copyrights. The Customer represents to Service Provider and unconditionally guarantees that any elements of text, graphics, photos, designs, trademarks, or other artwork furnished to Service Provider for inclusion in Web pages are owned by the Customer, or that the Customer has permission from the rightful owner to use each of these elements, and will hold harmless, protect, and defend Service Provider from any claim or suit arising from the use of such elements furnished by the Customer. Service Provider owns copyright to the assembled work of Web pages produced by Service Provider until final payment of this contract is received, all rights owned by Service Provider as to the design, graphics, and text in this Website transfer to the Customer.

Section 18: Lawful Purpose. The Customer may only use SantoSanto.Net's Server for lawful purpose. Transmission of any material in violation of any Federal, State or Local regulation is prohibited. This includes, but is not limited to copyrighted material, material legally judged to be threatening or obscene, pornographic, profane, or material protected by trade secrets. This also includes links or any connection to such materials.

Section 19: Taxes. Service Provider shall not be liable for any taxes or other fees to be paid in accordance with or related to sales made from the Customer using SantoSanto.Net's server. The Customer agrees to take full responsibility for all taxes and fees of any nature associated with such products sold by the Customer.

Section 20: General Provisions.

(a) Complete Agreement: This Agreement together with all exhibits, appendices or other attachments, is the sole and entire Agreement between the parties relating to the subject matter hereof. This Agreement supersedes all prior understanding, agreements and documentation relating to such subject matter. In the event of a conflict between the provisions of the main body of this Agreement and any attached exhibits, appendices or other materials, this Agreement shall take precedence.

(b) Modification to Agreement: Modification and amendments to this Agreement shall be enforceable only if they are in writing and are signed by authorized representatives of both parties.

(c) Waive: No Term or provision of this Agreement shall be deemed waived and no breach excused unless such waiver or consent is in writing and signed by the party claimed to the waived or consented.

(d) No Agency: Nothing contained herein will be construed as creating any agency, partnership, joint venture or other form of joint enterprise between the parties.

(e) Independent Contractor: The parties acknowledge that Service Provider shall perform his obligations hereunder as an independent contractor. The manner and method of performing such obligations will be under Service Provider's sole control and discretion. Service Provider's sole interest is in the result of such services. It is also expressly understood that Service Provider's employees and agents, if any, are not Customer's employees or agents, and have no authority to bind Customer by contract or otherwise. Customer shall make no deduction from any payments due Service Provider hereunder for federal and state tax purposes. In the event that Customer is found liable for Social Security, withholding, insurance, or other such taxes, Customer shall have the right to immediately recover such amount from Service Provider.

(f) Notice: All notices and other communications required or permitted under this Agreement shall be in writing and shall be deemed given when delivered personally, or five (5) days after being deposited in the United States mail, postage prepaid and addressed as follows, or to such other address as each party may designate in writing.

(g) Reasonable Costs: In the event of any controversy concerning or relating to this Agreement or the performance of this agreement, the prevailing party shall be entitled to recover its reasonable expensed (including reasonable attorney's fees) incurred in resolving such controversy, in addition to any other relief that may be available.

(h) Applicable Law: This Agreement will be governed by the laws of the State of California. Any litigation or arbitration requiring this Agreement shall be brought exclusively in Los Angeles, California.

(i) Severability: If any provision of this Agreement is held invalid, void or unenforceable under any applicable statute or rule of law, it shall to that extent be deemed omitted, and the balance of this Agreement shall be enforceable in accordance with the terms.

(j) Time of the Essence: Time is of the essence in the performance of the covenants of the parties hereunder, including without limitation delivery covenants to be performed by the Service Provider.

(k) Bankruptcy: If either party hereto (a) shall be adjudicated a bankrupt or an order appointing a receiver of it or of the major part of its property shall be made, or an order shall be made approving a petition or answer seeking its reorganization under any application bankruptcy law, and in any such case shall not be stayed within 10 days or (b) shall institute proceedings for a voluntary bankruptcy or apply for or consent to the appointment of a receiver of itself or its property, or shall make an assignment for the benefit of its creditors, or shall admit in writing its inability to pay its debts generally as they become due, for the purpose of seeking a reorganization under the federal bankruptcy laws or otherwise, then in any one or more of such events listed in (a) or (b) above, the other party may terminate this agreement by giving at least 10 days prior notice.